

REMARKS

Reconsideration and allowance of the amended claims are requested in view of the following information and discussion and in view of the enclosed June 19, 2006 Declaration of Thomas Eckel, a joint inventor of the subject matter claimed in the present application.

This Amendment will also confirm the substance of the July 7, 2006 interview between Examiner David J. Buttner and applicants' representatives Dr. Michael Schneider, Thomas A. Hodge and Mark D. Jenkins.

I. The Rejection Under Section 102

Under 35 U.S.C. 102(b), the Examiner has rejected Claims 1, 3-7, 10-13, 15-19 and 21-25 as anticipated by Itagaki U.S. Patent No. 6,423,766. This rejection is traversed in view of the amended claims and the following discussion.

The language of 35 U.S.C. § 102(b) states that:

A person shall be entitled to a patent unless ---

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States, or....

The interpretation of 102(b) is, without question, that **the denial of a patent requires that the reference teach applicants' invention as defined by the claims.** This requirement is also referred to as "anticipation," and the Courts have provided clear and unambiguous definitions in this area.

As discussed during the July 7 interview, Claim 1 is amended to recite that the thermoplastic molding composition of the present invention includes at least one halogen-free, phosphorus-based flame retardant having a formula (IVa) as shown on page 16 of the present specification. This flame retardant is neither taught nor suggested by the Itagaki patent.

Consequently, applicants request the withdrawal of this rejection under Section 102(b).

II. The Rejections Under Section 103

Under 35 U.S.C. 103(a), the Examiner has also rejected Claims 1, 3-7, 10-13, 15-19 and 21-25 as obvious over the Itagaki patent.

Under 35 U.S.C. 103(a), the Examiner has rejected Claims 8-10 as being unpatentable over the Itagaki patent in view of Idel et al. U.S. Patent No. 4,185,009.

These rejections are traversed in view of the amended claims, the following discussion and the enclosed June 19, 2006 Declaration of Thomas Eckel.

Section 103(a) requires that, if a patent is denied to an applicant, the differences between the subject matter sought to be patented and the prior art must be such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Section 103(a) further provides that patentability shall not be negatived by the manner in which the invention was made.

As stated above, the flame retardant of amended Claim 1 is neither taught nor suggested by the Itagaki patent. Similarly, the Idel patent also fails to teach or suggest applicants' flame retardant as defined in amended Claim 1.

As discussed during the July 7 interview, the enclosed Eckel Declaration clearly demonstrates that thermoplastic molding compositions which include the flame retardant as defined in amended Claim 1 show unexpectedly improved properties, specifically with regard to stress cracking resistance, as compared to other thermoplastic molding compositions which include other flame retardants.

Therefore, applicant's request the removal of these rejections under Section 103(a).

III. The Objection to Claim 20

The Examiner has objected to Claim 20 as being dependent upon a rejected base claim (Claim 1), but then states that Claim 20 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicants submit that Claim 20 is allowable as being dependent upon Claim 1 as amended.

Also enclosed are a Petition for Extension of Time Under 37 C.F.R. § 1.136, two Associate Powers of Attorney and a Change of Correspondence Address (Application).

The Commissioner is authorized to charge payment of any additional fees which are due in connection with this document, or credit any overpayment of fees, to Deposit Account No. 11-0553. A duplicate copy of this document is enclosed.

In view of the above information and discussion, the amended claims and the enclosed Eckel Declaration, applicants maintain that this application is in condition for allowance, which action is requested.

Respectfully submitted,



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